

BEFORE THE STATE TAX APPEAL BOARD
OF THE STATE OF MONTANA

PATRICIA BANIS,)	
)	DOCKET NO.: PT-1997-14
Appellant,)	
)	
-vs-)	
)	
THE DEPARTMENT OF REVENUE)	FINDINGS OF FACT,
OF THE STATE OF MONTANA,)	CONCLUSIONS OF LAW,
)	ORDER and OPPORTUNITY
Respondent.)	<u>FOR JUDICIAL REVIEW</u>

The above-entitled appeal was heard on December 9, 1998, in the City of Great Falls, Montana, in accordance with an order of the State Tax Appeal Board of the State of Montana, (the Board). The notice of the hearing was duly given as required by law. The taxpayer, Patricia Banis, presented testimony in support of the appeal. The Department of Revenue (DOR), represented by appraiser Marlyann Lawson, presented testimony in opposition to the appeal. Testimony was presented, exhibits were received and the Board then took the appeal under advisement; and the Board having fully considered the testimony, exhibits and all things and matters presented to it by all parties, finds and concludes as follows:

FINDINGS OF FACT

1. Due, proper and sufficient notice was given of this matter, the hearing hereon, and of the time and place of said hearing. All parties were afforded opportunity to present evidence, oral and documentary.

2. The taxpayer is the owner of the property which is the subject of this appeal and which is described as follows:

Parts of Lots 8, 9, 10, Block 303
Original Townsite, Unit 403,
Washington Court Condominiums, County
of Cascade, City of Great Falls,
Montana. (DOR ID #684400).

3. For the 1997 tax year, the DOR appraised the subject property at a value of \$970 for the land and \$39,030 for the improvements.

4. The taxpayer appealed to the Cascade County Tax Appeal Board requesting a reduction in value to \$33,090 for the improvements. The value of the land was not in contention.

5. The County Board denied the appeal stating "After hearing testimony and reviewing exhibits, the Board finds the values set by the Department of Revenue do accurately reflect the true market value of the property. This appeal is disapproved."

6. The taxpayer then appealed that decision to this Board.

TAXPAYER'S CONTENTIONS

The taxpayer purchased the unit in 1981 for \$32,000. She presented sales of similar units in the subject building. Unit #303 sold in 1979 for approximately \$25,000; unit #203 sold in 1991 for \$32,000; and unit #103 sold in 1997 for \$32,000.

Ms. Banis presented testimony and a written summation of her testimony describing crimes committed in the area close to her building (Ex 1). The crimes ranged from vandalism to murder. She stated that the front door of the building is unlocked between the hours of 7:00 a.m. and 7:00 p.m. The majority of the residents are elderly women. She is concerned by the lack of security in the building.

The taxpayer testified she thinks the location of the property should not be rated as good. The condominium units are in the downtown area in a high foot and vehicle traffic area. While the units in the building have been well maintained, she considers the desirability of the condominium units has been severely affected.

Ms. Banis argued that the sales of comparable properties used by the DOR were larger and more expensive than her unit. She further stated that she felt the method of

appraisal was flawed because it did not take into account location or values. In her opinion the assessed value should be the price paid for the units.

DOR CONTENTIONS

Ms. Lawson presented a copy of the property record card and the Montana Comparable Sheet (Ex A) for the record. The subject property contains 828 square feet of living area.

The building was built in 1973 with an effective age of 1985. The subject condominium unit is a one bedroom, one bath unit. Each unit has non-central baseboard heat. It is graded as a quality grade of four plus (slightly below average). The determination for the Condition, Desirability, and Utility (CDU), is considered as good.

Ms. Lawson stated that units in this building sell readily and that it wouldn't make much difference in sales if the building were located somewhere else.

BOARD'S DISCUSSION

The taxpayer presented testimony of crimes committed in the area surrounding the Washington Square Condominiums. While she agreed that the building had been well maintained, she thinks the high crime rate in the area has influenced the desirability of the units. The units have sold, but the selling prices for the one-bedroom units have remained relatively the same since Ms. Banis bought her unit in 1981. The comparables used on the Montana Comparable Sheet by the DOR

were larger than the subject property. In this appraisal cycle there were very few sales of one-bedroom units. The DOR considers all of the comparables and the subject unit to be low cost condominiums. Only one of the comparables is located in the same building as the subject property. This unit is larger and has three bedrooms. The other comparables are also in high traffic areas, but it was not testified that they are impacted by similar extraneousities as testified to by the taxpayer. There is also no indication that the values for the condo units with the subject building have increased over time based on sales. It follows, therefore, that the CDU should be lowered from good to average.

For the foregoing reasons, the appeal is hereby granted in part and denied in part.

CONCLUSIONS OF LAW

1. **15-8-111. Assessment - market value standard - exceptions.** (1) All taxable property must be assessed at 100% of its market value except as otherwise provided.

(2) (a) Market value is the value at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

(b) If the department uses construction cost as one approximation of market value, the department shall fully consider reduction in value caused by depreciation, whether

through physical depreciation, functional obsolescence, or economic obsolescence.

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ORDER

IT IS THEREFORE ORDERED by the State Tax Appeal Board of the State of Montana that the subject property shall be entered on the tax rolls of Cascade County by the assessor of that county at the 1997 tax year value of \$970 for the land and the value for the improvements as determined by the DOR as calculated in compliance with the provisions of this decision.

Dated this 5th of February, 1999.

BY ORDER OF THE
STATE TAX APPEAL BOARD

PATRICK E. McKELVEY, Chairman

(S E A L)

GREGORY A. THORNQUIST, Member

NOTICE: You are entitled to judicial review of this Order in accordance with Section 15-2-303(2), MCA. Judicial review may be obtained by filing a petition in district court within 60 days following the service of this Order.

